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EXAMINER

AKERS, GEOFFREY R

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 03/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/862800

Applicant(s)

Hogen Loorn

Examiner

Akers, g

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/20/04
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

Reply to Response

1. This action is issued in reply to applicant's Response(Paper #5) dated 1/20/04.
2. No claims were amended. None were cancelled. None were added.
3. Claims 1-21 are pending.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-16 are rejected under 35 USC 103(a) as unpatentable over Godin(US Pat. No: 5,890,138) in view of Barzilai(US Pat. No: 6,012,045).The rejection as stated in the First Office Action is maintained.
6. As per claim 1 Godin teaches a descending bid auction system(Abstract)(col 1 line 58-col 2 line 14) and a pricing device that decrementally alters an auction price for an item(col 6 lines 36-45) and at least one reserved bidding device that allows a buyer to preregister(Fig 2/76)(col 4 lines 41-52). Godin does not specifically teach entering a preregistered a bid amount and a bid processing module that determines when the pricing device reaches a price for the item that matches the preregistered bid amount and awards a sale of the item to the buyer that submitted the bid.Barzilai teaches this(Fig 6A/320/324). It would have been obvious to one skilled in the art at the time of

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the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai(col 2 lines 1-7).

7. As per claim 2 Godin teaches the system of claim 1, wherein the reserved bidding device is located remotely from the pricing device(Fig 1/8/4/6)(col 3 lines 15-21).

8. As per claim 3 Godin teaches the system of claim 1. Godin does not specifically teach wherein the pricing device begins an auction sequence at a selected starting price and the bid processing module only accepts a preregistered bid that is submitted prior to a start of the auction sequence.Barzilai teaches this(col 2 lines 36-44).It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai(col 2 lines 1-7) and utilizes preregistered bids.

9. As per claim 4 Godin teaches the system of claim 1.Godin does not specifically teach wherein the bid processing module facilitates receipt and processing of a plurality of preregistered bids from a plurality of reserved bidding devices.Barzilai teaches this(col 2 lines 20-25)(col 2 lines 36-44).It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes

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any unacceptable bids submitted by a bidder as enunciated by Barzilai(col 2 lines 1-7) and which utilizes preregistered bids.

10. As per claim 5 Godin teaches the system of claim 1 wherein the reserved bidding device comprises a computer(Fig 1/32)(col 3 lines 14-21).

11. As per claim 6 Godin teaches the system of claim 1, including a plurality of local bidding devices that permit at least one of a plurality of individuals to indicate a bid amount responsive to the pricing module reaching a price at which the individual wishes to purchase the item(Fig 1/8)(col 6 lines 56-65)(Fig 10/150).

12. As per claim 7 Godin teaches according to the system of claim 6. Godin teaches a local buyer(col 6 line 56-col 7 line 21). Godin does not specifically teach wherein the bid processing module determines whether a local bidding device was used to indicate a bid amount that is equal to at least one preregistered bid and determines which of the preregistered buyer or the local buyer will be awarded the sale of the item based upon selected criteria.Barzilai teaches this(col 2 lines 20-25)(col 2 lines 36-44)(col 5 lines 57-67).It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai(col 2 lines 1-7) and which delineates between a preregistered or a local buyer being the winner.

13. As per claim 8 Godin teaches the system of claim 4, wherein the bid processing module determines whether more than one preregistered bid is for the same price and

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gives the first received such bid priority over the other such bid(col 2 lines 15-21)(col 17 lines 17-22).

14. As per claim 9 Godin teaches according to the system of claim 1, Godin does not necessarily teach wherein the bid processing module accepts at least one bid from the reserved bidding device during an auction cycle. Barzilai teaches this(Fig 6A/310/314//318/320/324/326/328)(Fig 6B/354)(col 2 lines 36-50)(col 13 line 50-62).It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai(col 2 lines 1-7) and which receives at least one bid from a reserved bidding device.

15. As per claim 10 Godin teaches according to the system of claim 1. Godin does not specifically teach wherein the reserved bidding device allows the buyer to designate a bid to be accepted at a second price after the bid has been declined by the bid processing module at a first price designated by the buyer. Barzilai teaches this in that a bidder may submit up to 8 bids on a single product whereby the system accepts the highest bid submitted by the bidding customers and excludes all bids greater than the lowest high bid from a group submitted by a single bidder for a single service or product(col 2 lines 1-7). Barzilai also teaches a bid checker file(col 13 lines 26-52) and a bid table of distributed bids(col 16 line 46-64) of total bids by each member and the time received. It would have been obvious to one skilled in the art at the time of the invention

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to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai(col 2 lines 1-7) and where a buyer can designate that a bid can be accepted at a second price after having been declined at a first price.

16. As per claim 11 Godin teaches a method of conducting a descending price auction(Abstract)(col 1 line 58-col 2 line 14) comprising the steps of (B)sequentially decreasing the price of the item(col 6 lines 37-45). Godin does not specifically teach (A)receiving at least one preregistered bid at a selected price for an item from a buyer. Barzilai teaches this(col 2 lines 36-50).Godin does specifically teach (C) determining if the decreasing price equals the preregistered selected price. Barzilai teaches determining when the price equals the preregistered selected price(col 13 lines 26-46). Godin does not specifically teach(D)awarding the sale of the item to the buyer who submitted the preregistered bid when the decreasing price equals the preregistered selected price. Barzilai teaches this(Fig 6B/354).It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai(col 2 lines 1-7).

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17. As per claim 12 Godin teaches according to the method of claim 11. Godin does not specifically teach including receiving preregistered bids from at least one of a plurality of remote locations. Barzilai teaches this (col 2 lines 20-44) (col 3 lines 46-65) (Fig 1). It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai (col 2 lines 1-7) and which utilizes preregistered bids.

18. As per claim 13 Godin teaches according to the method of claim 11. Godin does not specifically teach denying a preregistered bid submission that is not received prior to the beginning of the auction cycle. Barzilai teaches this in a bid cycle revealing the open, close and acceptance dates for bids (col 2 lines 35-36) and electronically blocking those clients who have not preregistered (col 2 lines 37-39). It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai (col 2 lines 1-7) that are not preregistered.

19. As per claim 14 Godin teaches according to the method of claim 11. Godin does not specifically teach including determining a time of submission of each preregistered bid and giving priority to a first bid that is received prior to a second bid when the first

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and second preregistered bids are for the same price. Barzilai teaches this (col 17 lines 17-22). It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai (col 2 lines 1-7) and which utilizes temporal priority.

20. As per claim 15, Godin teaches according to the method of claim 11. Godin does not specifically teach determining an amount of the item associated with a preregistered bid and giving priority to a first preregistered bid that includes a first quantity of the item over a second preregistered bid that includes a lesser amount than the first bid. Barzilai teaches this (col 16 line 61-col 17 line 16). It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai (col 2 lines 1-7) and which utilizes quantity priority.

21. As per claim 16 Godin teaches the method according to claim 11. Godin does not specifically teach including receiving the preregistered bid during an auction cycle. Barzilai teaches this (col 2 lines 29-39). It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch

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auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai(col 2 lines 1-7).

22. Claims 17-20 are rejected under 35USC 103(a) as unpatentable over Godin(US Pat. No: 5,890,138) in view of Friedland(US Pat. No: 6,449,601).

23. As per claim 17 Godin teaches a device for facilitating remote bidding in a declining price auction(Abstract) comprising a communications module that facilitates communication between the remote location and an auction site(Fig 1)(Fig 2). Godin does not specifically teach a remote clock module that determines a desired timing difference between a remote clock and an auction clock at the auction site and controls operation of the remote clock to precede the clock at the auction site and a bid selector module that allows the remote purchaser to communicate an intention to purchase an item at a selected price and a signal generated by the device including information regarding the desired purchase price of the remote purchaser.Friedland teaches the technological complexities including time delays involved in implementing Internet-based live auctions(col 5 line 51-col 9 line 63).Friedland in particular teaches state transition diagrams for critical time transitions(Fig 2) in Internet-based auctions.Friedland further teaches time-syncing from the auction server in the real time auction(Fig 18/1814)(1816) and checking the auction id/lot bid being higher(Fig 19/1904) as well as generating a status message and forwarding this to all remote bidders(Fig 19/1912).Friedland also teaches receiving a bid from the auction server and

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displaying this(Fig 22/2214) as well as receiving a status update from the user(Fig 22/2212) and sending a known sync message to the auction server(Fig 22/2214) for the clock as well as a resyncing operation(Fig 22/2226) as well as client participation in the live auction(col 13 line 15-58)including information regarding the desired purchase price of the remote purchaser and the remote purchaser communicating an intention to purchase an item at the selected price(Fig 9/906)(Fig 10/1016/1014)(Fig 11/1114/1112).Friedland further teaches updating the status auction screen(Fig 13/1310) and displaying the auction screen and waiting for the event of bidding(Fig 13/1302) following the time delay.Friedland also teaches establishing a resync request for a time delay between the auction clock and the remote clock(Fig 22/2224) and resyncing(Fig 22/2226). It would have been obvious to one skilled in the art at the time of the inventioin to combine Godin in view of Friedland to teach the disclosure. The motivation to combine is to teach a Dutch auction providing for rapidly disseminating information to remote bidders and collecting such information from them to enable them to paticipate in a real time Internat based auctions as enunciated by Friedland(col 2 lines 50-63).

24. As per claim 18 Godin teaches according to the device of claim 17. Godin does not specifically teach wherein the clock module utilizes a synchronization time stamp provided by the auction site and a start delay variable that is indicative of an expected communication processing delay between the remote location and the auction site.Friedland teaches establishing a resync request for a time delay between the auction clock and the remote clock(Fig 22/2224) and resyncing(Fig 22/2226). Friedland

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further teaches a flow control program for the sync software(col 20 line 17-col 21 line 17).Friedland also teaches that the auction server sends a start message to the root nodes(Fig 18/1804)(col 19 lines14-20). It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Friedland to teach the disclosure and to place a time stamp on the message sent from the auction site server. The motivation to combine is to teach a Dutch auction providing for rapidly disseminating information to remote bidders and collecting such information from them to enable them to participate in a real time Internet based auctions as enunciated by Friedland(col 2 lines 50-63).

25. As per claim 19 Godin teaches the device according to claim 17. Godin does not specifically teach wherein the communications module facilitates communicating the purchaser's desired purchase price to the auction site prior to a time when the clock at the auction site reaches the desired purchase price.Friedland teaches client participation in the live auction(col 13 line 15-58)including information regarding the desired purchase price of the remote purchaser and the remote purchaser's communicating an intention to purchase an item at the selected price(Fig 9/906)(Fig 10/1016/1014)(Fig 11/1114/1112).Friedland further teaches that the status message generated by the distributed live auction auction console program at the auction site contains a high bid field(Fig 10/1014) containing the highest bid for an identified lot ID(Fig 10/1010) and a high bidder field (Fig 10/1016) pending prior to a time when the clock at the auction site reaches the desired purchase price and where the high bidder may be a member of the live audience or a remote bidder(col 15 lines 1-21). It would

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have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Friedland to teach the disclosure. The motivation to combine is to teach a Dutch auction providing for rapidly disseminating information to remote bidders and collecting such information from them to enable them to participate in a real time Internet based auctions as enunciated by Friedland(col 2 lines 50-63) utilizing distributed live sequencing methods.

26. As per claim 20 Godin teaches the device according to claim 17. Godin does not specifically teach a display portion that displays a visual indication of the remote auction clock information regarding a currently offered product and selectively displays information regarding other products to be offered at the auction site. Friedland teaches receiving a bid from the auction server and displaying this(Fig 22/2214) as well as receiving a status update from the user(Fig 22/2212) and sending a known sync message to the auction server(Fig 22/2214) for the clock. Friedland further teaches displaying products for sale at the auction(Fig 9/902) as well as the next item to be coming up for sale(Fig 9/918) and "fair warning" message in the timing sequence of selling the product(Fig 9/908). Friedland also teaches status messages being displayed on the right hand column(Fig 9/902) in real time connection with the auction server to insure the product identification is correct and that it is being passed to the remote bidders(col 14 lines 4-17). It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Friedland to teach the disclosure. The motivation to combine is to teach a Dutch auction providing for rapidly disseminating information to remote bidders and collecting such information from them to enable them

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to participate in a real time Internet based auctions as enunciated by Friedland(col 2 lines 50-63) which provides displays of the live auction process.

27. Claim 21 is rejected under 35USC 103(a) as unpatentable over Godin(US Pat. No: 5,890,138) in view of Friedland(US Pat. No: 6,449,601) and further in view of Barzilai(US Pat. 6,012,045).

29. As per claim 21 Godin teaches according to the device of claim 17. Godin does not specifically teach a bid carrying function that permits a remote purchaser to have a selected bid be carried over during the auction cycle to a subsequently reached purchase price in the event that a desired purchase price is not accepted at the auction site. Friedland teaches receiving a bid from the auction server and displaying this(Fig 22/2214) as well as receiving a status update from the user(Fig 22/2212) as well as client participation in the live auction(col 13 line 15-58)including information regarding the desired purchase price of the remote purchaser and the remote purchaser communicating an intention to purchase an item at the selected price(Fig 9/906)(Fig 10/1016/1014)(Fig 11/1114/1112).Friedland further teaches inventory sequencing and filtering of bids and rerouting and carrying over on bids for choice and desired inventory quantities(col 18 lines 28-47) as well as conducting process status(Fig 16). It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Friedland to teach the disclosure. The motivation to combine is to teach a Dutch auction providing for rapidly disseminating information to remote bidders and collecting such information from them to enable them to participate in a real time Internet

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based auctions as enunciated by Friedland(col 2 lines 50-63).Barzilai also teaches in that a bidder may submit up to 8 bids on a single product whereby the system accepts the highest bid submitted by the bidding customers and excludes all bids greater than the lowest high bid from a group submitted by a single bidder for a single service or product(col 2 lines 1-7).Barzilai also teaches a bid checker file(col 13 lines 26-52) and a bid table of distributed bids(col 16 line 46-64) of total bids by each member and the time received.It would have been obvious to one skilled in the art at the time of the invention to combine Godin in view of Barzilai to teach applicant's disclosure. The motivation to combine is to teach an automatic Dutch auction method which provides a system for selectively accepting highest bids submitted and excludes any unacceptable bids submitted by a bidder as enunciated by Barzilai(col 2 lines 1-7) and where a buyer can designate that a bid can be accepted at a second price after having been declined at a first price.

Response to Arguments

30. Applicant's arguments have been considered but are not persuasive. Applicant's sole argument is that of a motivation to combine. Godin teaches pre-registration(Fig 5/76) of bidders(Fig 2/76)(col 2 lines 22-26). Godin explicitly teaches providing rapid feedback of a reverse(Dutch) auction process(Abstract). Godin teaches buying now(Fig 10/150) which, when consummated will remove the buyer from the process(col 2 line 16). Godin further teaches a time period for which the locked in price is valid(Fig 12/172).Bidders are removed upon purchase, but are active in the online auction in transactions through workstations. Godin also teaches a fixed time period to complete

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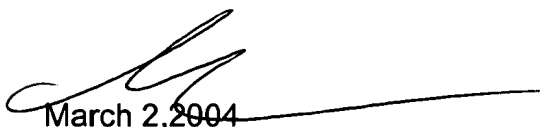
the auction(col 1 line 67) as well as a dynamic process of price feedback during the auction process to participants(col 2 lines 7-14).Godin further teaches real time confirmation of acceptable financial transactions(col 2 lines 27-31).Godin also teaches continually updating auction prices(col 2 line 56).

Conclusion

31. THIS ACTION IS MADE FINAL.

32. Any questions concerning this communication should be addressed to the primary examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the primary examiner are unsuccessful, the primary examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-308-1113.


March 2, 2004

DR. GEOFFREY R. AKERS, P.E.
PRIMARY EXAMINER